

16A C.J.S. Constitutional Law § 787

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Constitutional Law

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PART III. Overview of Protected Personal Rights and Freedoms; Police Power

IX. Personal, Civil, and Political Rights and Freedoms

C. Personal Liberty

3. Right to Travel

a. In General

§ 787. Intrastate travel

Topic Summary | References | Correlation Table

West's Key Number Digest

West's Key Number Digest, Constitutional Law  1283

Under some authority but not other, intrastate travel is afforded federal constitutional protection.

It has been stated that the right to intrastate travel is not afforded federal constitutional protection.¹ It has also been held, however, that there is a right to intrastate travel² and this right is sometimes said to be fundamental.³ The right includes the right to change one's residence within a state⁴ although it does not allow one to travel anywhere and everywhere within the state at his or her pleasure.⁵

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Footnotes

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U.S.—Wardwell v. Board of Ed. of City School Dist. of City of Cincinnati, 529 F.2d 625 (6th Cir. 1976); D.L. v. Unified School Dist. No. 497, 596 F.3d 768, 254 Ed. Law Rep. 49 (10th Cir.

- 2010); Hammel v. Tri-County Metropolitan Transp. Dist. of Oregon, 955 F. Supp. 2d 1205 (D. Or. 2013), appeal dismissed, (9th Cir. 13-35661) (Oct. 16, 2013) and appeal dismissed, (9th Cir. 13-35612) (Jan. 23, 2014) and appeal dismissed, (9th Cir. 13-35614) (Jan. 23, 2014).
N.Y.—New York State Dept. of Transp. v. L.O.K. Aviation, 134 Misc. 2d 136, 509 N.Y.S.2d 1016 (Dist. Ct. 1986).
- 2 U.S.—Spencer v. Casavilla, 903 F.2d 171 (2d Cir. 1990); Johnson v. City of Cincinnati, 310 F.3d 484, 2002 FED App. 0332P (6th Cir. 2002).
Cal.—People v. Aleksanyan, 231 Cal. App. 4th Supp. 1, 180 Cal. Rptr. 3d 375 (App. Dep't Super. Ct. 2014).
Minn.—State v. Cuypers, 559 N.W.2d 435 (Minn. Ct. App. 1997).
Mont.—In re Marriage of Guffin, 2009 MT 169, 350 Mont. 489, 209 P.3d 225 (2009).
N.Y.—City of New York v. Andrews, 186 Misc. 2d 533, 719 N.Y.S.2d 442 (Sup 2000).
N.C.—Standley v. Town of Woodfin, 362 N.C. 328, 661 S.E.2d 728 (2008).
N.D.—State v. Holbach, 2009 ND 37, 763 N.W.2d 761 (N.D. 2009).
Ohio—State v. Burnett, 93 Ohio St. 3d 419, 2001-Ohio-1581, 755 N.E.2d 857, 107 A.L.R.5th 821 (2001).
Wis.—City of Milwaukee v. K.F., 145 Wis. 2d 24, 426 N.W.2d 329 (1988).
- Under state constitution**
- U.S.—Catron v. City of St. Petersburg, 658 F.3d 1260 (11th Cir. 2011) (under Florida constitution); Pencak v. Concealed Weapon Licensing Bd. for County of St. Clair, 872 F. Supp. 410 (E.D. Mich. 1994).
Mass.—Com. v. Weston W., 455 Mass. 24, 913 N.E.2d 832 (2009).
N.C.—Standley v. Town of Woodfin, 362 N.C. 328, 661 S.E.2d 728 (2008).
- 3 U.S.—Catron v. City of St. Petersburg, 658 F.3d 1260 (11th Cir. 2011); Ritchie v. Coldwater Community Schools, 947 F. Supp. 2d 791 (W.D. Mich. 2013), appeal dismissed, (6th Cir. 13-1770) (Feb. 10, 2014).
Fla.—State v. J.P., 907 So. 2d 1101 (Fla. 2004).
Minn.—State v. Cuypers, 559 N.W.2d 435 (Minn. Ct. App. 1997).
N.C.—Standley v. Town of Woodfin, 362 N.C. 328, 661 S.E.2d 728 (2008).
Wash.—City of Seattle v. McConahy, 86 Wash. App. 557, 937 P.2d 1133 (Div. 1 1997).
Wis.—State v. Ruesch, 214 Wis. 2d 548, 571 N.W.2d 898 (Ct. App. 1997).
As to standard of review of fundamental right to travel, see § 790.
- 4 Wis.—Brandmiller v. Arreola, 189 Wis. 2d 215, 525 N.W.2d 353 (Ct. App. 1994), decision aff'd, 199 Wis. 2d 528, 544 N.W.2d 894 (1996).
- 5 U.S.—Hannemann v. Southern Door County School Dist., 833 F. Supp. 2d 1068, 280 Ed. Law Rep. 263 (E.D. Wis. 2011), aff'd, 673 F.3d 746, 278 Ed. Law Rep. 70 (7th Cir. 2012) (under Wisconsin law).